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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jamie Simone, et al.
Serial No. 09/892,374
Filed: June 26, 2001
Group Art Unit :1617
Examiner: E.J. Webman

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Title: WATER-SOLUBLE POLYMERS FOR THE REDUCTION OF DIETARY
PHOSPHATE OR OXALATE ABSORPTION

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
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Assistant Commissioner for Patents
Washington D.C. 20231

Sir:

Response B

The examiner has rejected Claims 18 and 19 in an office action mailed 03/17/2003. The applicants respectfully request reconsideration in light of the following remarks:

The examiner rejects claims 18 and 19 under 35 USC §102(b) as being anticipated by U.S. Pat. No.3,332,317 ('317). The examiner state that '317 teaches quaternary ammonium adducts of polyepichlorhydrin with molecular weights of 600-100,000 comprising trimethyl and trialkyl groups, and that water solubility is specified. He states that aqueous solutions are disclosed. The applicants disagree that the '317 document discloses the formulation of the present invention.

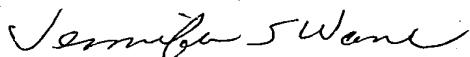
The applicants first point out that the '317 reference does not teach a formulation for oral administration which comprises both the water-soluble polyether glycol polymer and the pharmaceutically active carrier. Therefore the '317 patent does not anticipate Claim 18 as amended in the preliminary amendment submitted June 26, 2001.

The examiner states that the claimed oral administration is merely an intended use. The applicants respectfully point out that the oral administration is the reason for the invention, and for claim 18 reciting a "pharmaceutically-acceptable carrier." Where the preamble gives meaning to the claim, the preamble is no longer merely an intended use. Therefore, the applicants request that the examiner remove this cause for rejection.

The examiner rejects claims 1-4, 6-9, and 12-14 as anticipated under 35 USC §102(b) as being anticipated by US. Pat. No. 4,056,510 ('510). The applicants respectfully point out that the claims 1-4, 6-9, and 12-14 are not pending in this application. The applicants request that the examiner withdraw this rejection.

Finally, the applicants wish to point out that, in the restriction requirement, dated 10/22/2002 the examiner classified claims 18 and 19 to be in 424, subclass 439. In light of the examiner's not considering the invention as a formulation for oral administration, the applicants request that the examiner reconsider the classification for this invention.

Respectfully submitted,



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